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TONKON TORP LLP

1600 Pioneer Tower

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Portland, OR 97204

Attorneys for Debtor

UNITED STATES BANKRUPTCY COURT

DISTRICT OF OREGON

In re

C & K Market, Inc.,

Debtor.

Case No. 13-64561-fra11

**DEBTOR'S APPLICATION FOR
ORDER TO EMPLOY TONKON
TORP LLP AS ATTORNEYS FOR
DEBTOR**

C & K Market, Inc., debtor and debtor-in-possession ("Debtor"), moves this Court for entry of an order approving the employment of Tonkon Torp LLP ("Tonkon Torp") as Chapter 11 counsel for Debtor. Debtor makes this Application pursuant to 11 U.S.C. § 327 and Federal Rule of Bankruptcy Procedure 2014. In support of this Motion, Debtor incorporates the statements contained in the Declaration of Edward Hostmann in Support of First Day Pleadings ("First Day Declaration") filed contemporaneously herewith, and further respectfully states as follows:

1 1. On November 19, 2013 (the "Petition Date"), Debtor filed a voluntary
2 petition for relief under Chapter 11 of Title 11 of the United States Code.

3 2. Debtor has continued in possession of its property and is continuing to
4 operate and manage its business as debtor-in-possession pursuant to Sections 1107(a) and
5 1108 of Title 11 of the United States Code.

6 3. No request has been made for the appointment of a trustee or
7 examiner, and no official committee of unsecured creditors has been appointed in Debtor's
8 case.

9 4. The Court has jurisdiction over this matter pursuant to 28 U.S.C.
10 §§ 157 and 1334. Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.
11 This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

12 5. C & K is a family owned grocery store company headquartered in
13 Brookings, Oregon. Ray Nidiffer founded the company in 1956 with a single store in
14 Brookings. Over the next 50 years, the Nidiffer family and its employees grew the company
15 to a chain of 60 stores, operating mostly in small rural communities, with 41 stores in Oregon
16 and 19 stores in northern California. The stores operate under the banners Ray's Food Place,
17 Shop Smart and C & K Market ("Market"). Market employs over 2,300 employees,
18 approximately 57% of whom are full-time. Market has an average biweekly payroll in
19 excess of \$2,700,000 and provides family health insurance for all its full-time employees.

20 6. Debtor desires to retain and employ Tonkon Torp as counsel in this
21 Chapter 11 case, pursuant to Section 327 of the Code, to represent Debtor in all aspects of its
22 reorganization, on the terms and subject to the conditions described below.

23 7. Debtor believes Tonkon Torp is well suited for this representation.
24 Tonkon Torp has experience in all aspects of the law that may arise in this Chapter 11 case.
25 In particular, Tonkon Torp has substantial bankruptcy and restructuring, corporate, finance,
26 litigation, real estate, land use, regulatory, labor and tax expertise.

8. Debtor is informed that Albert N. Kennedy, Timothy J. Conway, Ava L. Schoen, and Michael W. Fletcher, the attorneys at Tonkon Torp primarily involved in this Chapter 11 case, are admitted to practice before this Court and that they have read Local Bankruptcy Rule 2016.

9. The services to be performed by Tonkon Torp are necessary in order for Debtor to perform its duties as debtor-in-possession. Subject to the control of and further order of the Court, Tonkon Torp intends to render the following services to Debtor:

a. Advise Debtor of its rights, powers and duties as a debtor and debtor-in-possession continuing to operate and manage its business and property under Chapter 11 of the Code;

b. Take all actions necessary to protect and preserve Debtor's bankruptcy estate, including the prosecution of actions on Debtor's behalf, the defense of any action commenced against Debtor, negotiations concerning all litigation in which Debtor is involved, objections to claims filed against Debtor in this bankruptcy case, and the compromise or settlement of claims;

c. Advise Debtor concerning, and prepare on behalf of Debtor, all necessary applications, motions, memoranda, responses, complaints, answers, orders, notices, reports and other papers, and review all financial and other reports required from Debtor as debtor-in-possession in connection with administration of this Chapter 11 case;

d. Advise Debtor with respect to, and assist in the negotiation and documentation of, financing agreements, debt and cash collateral orders, and related transactions;

e. Review the nature and validity of any liens asserted against Debtor's property and advise Debtor concerning the enforceability of such liens;

f. Advise Debtor regarding (a) its ability to initiate actions to collect and recover property for the benefit of its estate; (b) any potential property

dispositions; and (c) executory contract and unexpired lease assumptions, assignments and rejections, and lease restructuring and recharacterizations;

g. Negotiate with creditors concerning a Chapter 11 plan; prepare the plan, disclosure statement and related documents; take the steps necessary to confirm and implement the plan, including, if necessary, negotiations for financing the plan; and

h. Provide such other legal advice or services as may be required in connection with this Chapter 11 case.

10. Subject to Court approval, Debtor has agreed to compensate Tonkon Torp on an hourly basis in accordance with Tonkon Torp's ordinary and customary hourly rates in effect on the date services are rendered. The Tonkon Torp professionals who will be primarily responsible for providing these services, their status and their billing rates are as follows:

<u>Attorney Name</u>	<u>Status</u>	<u>Hourly Rate</u>
Albert N. Kennedy	Partner	\$475.00
Timothy J. Conway	Partner	\$450.00
Michael W. Fletcher	Partner	\$325.00
Ava L. Schoen	Associate	\$275.00
Spencer Fisher	Paralegal	\$150.00
Leslie Hurd	Legal Assistant	\$90.00

11. From time to time, other Tonkon Torp attorneys and paralegals may also render services to Debtor in order to take advantage of specialized skills or expertise, to meet the demands of the case schedule, or for other appropriate reasons. Debtor has agreed that Tonkon Torp will also be compensated for the services of these professionals at their usual and customary hourly rates.

12. Tonkon Torp has not agreed to any variations from, or alterations to, its standard or customary billing arrangements for this engagement.

13. None of the Tonkon Torp professionals included in this engagement have varied their rate based on the geographic location of this bankruptcy case.

1 14. Tonkon Torp is billing Debtor at the same effective rates that it billed
2 prepetition.

3 15. Tonkon Torp will maintain detailed, contemporaneous time records of
4 expenses incurred with the rendering of legal services described above by category and
5 nature of services rendered.

6 16. As disclosed in the Rule 2014 Verified Statement for Professional filed
7 herewith, prior to the filing of the bankruptcy petition, Tonkon Torp received a retainer from
8 Debtor and applied a portion of that retainer for prepetition services and costs rendered prior
9 to the filing of the bankruptcy, including the Chapter 11 filing fee. The remaining balance is
10 held as a retainer.

11 17. Within the 12-month period preceding the Petition, Tonkon Torp
12 provided legal services to Debtor. The total cost of legal services prior to the filing of the
13 Petition, and payments for those services, are disclosed on the attached Rule 2014 Verified
14 Statement for Proposed Professional.

15 18. Debtor agrees and understands that Tonkon Torp has reserved the right
16 to withdraw as counsel to Debtor, and Debtor hereby consents to such a withdrawal, in the
17 event it becomes apparent Tonkon Torp will not be paid for its services. Debtor also
18 recognizes that professional fees and costs incurred by Tonkon Torp are subject to approval
19 by the Court after review of fee applications filed by Tonkon Torp.

20 19. To the best of Debtor's knowledge, the partners and associates of
21 Tonkon Torp do not have any connection with Debtor, its creditors, any other party-in-
22 interest, or their respective attorneys or accountants, except as stated in the Rule 2014
23 Verified Statement of Proposed Professional.

24 20. A proposed Order Authorizing Employment of Tonkon Torp LLP as
25 Attorneys for Debtor is attached as **Exhibit 1**.
26

1 For the reasons stated in this Application, Debtor requests that the Court enter
2 an order authorizing it to employ Tonkon Torp to represent Debtor as its general counsel in
3 this Chapter 11 case as of the Petition Date, with compensation and reimbursement of
4 expenses to be paid as an administrative expense in such amounts as may be allowed by this
5 Court after notice and hearing pursuant to Section 330 of the Bankruptcy Code or as
6 otherwise provided by Court order.

7 DATED this 19th day of November, 2013.

8 C & K Market, Inc.

9 By: Edward Hostmann Inc., Chief Restructuring
10 Officer

11 By /s/ Edward C. Hostmann
Edward C. Hostmann, President

12 Presented by:

13 TONKON TORP LLP

14 /s/ Ava L. Schoen

15 Albert N. Kennedy, OSB No. 821429
16 Timothy J. Conway, OSB No. 851752
17 Michael W. Fletcher, OSB No. 010448
Ava L. Schoen, OSB No. 044072
Attorneys for Debtor

EXHIBIT 1

PROPOSED FORM OF ORDER

UNITED STATES BANKRUPTCY COURT
DISTRICT OF OREGON

In re

C & K Market, Inc.,

Debtor.

Case No. 13-64561-fra11

**ORDER GRANTING DEBTOR'S
APPLICATION FOR ORDER TO
EMPLOY TONKON TORP LLP AS
ATTORNEYS FOR DEBTOR**

THIS MATTER having come before the Court upon Debtor's Application for Order to Employ Tonkon Torp LLP as Attorneys for Debtor (the "Application") [Dkt. # ____]; the Court having reviewed the Application, the Rule 2014 Verified Statement for Professional, and the First Day Declaration and having considered the statements of counsel and the evidence adduced with respect to the Application at a hearing before the Court (the "Hearing"); and the Court having found that (1) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, (2) venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409, (3) this is a core proceeding pursuant to 28 U.S.C. § 157(b), and (4) notice of the Application and the Hearing was sufficient under the circumstances; and after due deliberation the Court having determined that the relief requested in the Application is in the best interests of Debtor, its estate and the creditors; and good and sufficient cause having been shown;

IT IS HEREBY ORDERED THAT:

1. The Application is granted.
2. In accordance with Bankruptcy Code Section 327(a), Debtor is authorized to retain and employ Tonkon Torp as its general counsel in all matters in the above Chapter 11 case as of the Petition Date to perform all of the services set forth in the Application, on the terms set forth in the Application.
3. Tonkon Torp's compensation shall be subject to Court approval in accordance with Sections 330 and 331 of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and the Local Rules of this Court, including any procedures that may be established under Local Rule 2016-1.

#

I certify that I have complied with the requirements of LBR 9021-1(a)(2)(A).

Presented by:

TONKON TORP LLP

By _____
Albert N. Kennedy, OSB No. 821429
Timothy J. Conway, OSB No. 851752
Michael W. Fletcher, OSB No. 010448
Ava L. Schoen, OSB No. 044072
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michael.fletcher@tonkon.com
ava.schoen@tonkon.com
Attorneys for Debtor

cc: List of Interested Parties

UNITED STATES BANKRUPTCY COURT
DISTRICT OF OREGON

In re)
) Case No. _____
)
)
Debtor(s)) RULE 2014 VERIFIED STATEMENT
) FOR PROPOSED PROFESSIONAL

Note: To file an amended version of this statement per ¶19, file a fully completed amended Rule 2014 statement on LBF #1114 and clearly identify any changes from the previous filed version.

1. The applicant is not a creditor of the debtor except:
2. The applicant is not an equity security holder of the debtor.
3. The applicant is not a relative of the individual debtor.
4. The applicant is not a relative of a general partner of the debtor (whether the debtor is an individual, corporation, or partnership).
5. The applicant is not a partnership in which the debtor (as an individual, corporation, or partnership) is a general partner.
6. The applicant is not a general partner of the debtor (whether debtor is an individual, corporation, or partnership).
7. The applicant is not a corporation of which the debtor is a director, officer, or person in control.
8. The applicant is not and was not, within two years before the date of the filing of the petition, a director, officer, or employee of the debtor.
9. The applicant is not a person in control of the debtor.
10. The applicant is not a relative of a director, officer or person in control of the debtor.
11. The applicant is not the managing agent of the debtor.
12. The applicant is not and was not an investment banker for any outstanding security of the debtor; has not been, within three years before the date of the filing of the petition, an investment banker for a security of the debtor, or an attorney for such an investment banker in connection with the offer, sale, or issuance of a security of the debtor; and is not and was not, within two years before the date of the filing of the petition, a director, officer, or employee of such an investment banker.
13. The applicant has read 11 U.S.C. §101(14) and §327, and FRBP 2014(a); and the applicant's firm has no connections with the debtor(s), creditors, any party in interest, their respective attorneys and accountants, the United States Trustee, or any person employed in the office of the United States Trustee, or any District of Oregon Bankruptcy Judge, except as follows:

14. The applicant has no interest materially adverse to the interest of the estate or of any class of creditors or equity security holders.
15. Describe details of all payments made to you by either the debtor or a third party for any services rendered on the debtor's behalf within a year prior to filing of this case:
16. The debtor has the following affiliates (as defined by 11 U.S.C. §101(2)). Please list and explain the relationship between the debtor and the affiliate:
17. The applicant is not an affiliate of the debtor.
18. Assuming any affiliate of the debtor is the debtor for purposes of statements 4-13, the statements continue to be true except (list all circumstances under which proposed counsel or counsel's law firm has represented any affiliate during the past 18 months; any position other than legal counsel which proposed counsel holds in either the affiliate, including corporate officer, director, or employee; and any amount owed by the affiliate to proposed counsel or its law firm at the time of filing, and amounts paid within 18 months before filing):
19. The applicant hereby acknowledges that he/she has a duty during the progress of the case to keep the court informed of any change in the statement of facts which appear in this verified statement. In the event that any such changes occur, the applicant immediately shall file with the court an amended verified statement on LBF #1114, with the caption reflecting that it is an amended Rule 2014 statement and any changes clearly identified.

THE FOLLOWING QUESTIONS NEED BE ANSWERED ONLY IF AFFILIATES HAVE BEEN LISTED IN STATEMENT 16.

20. List the name of any affiliate which has ever filed bankruptcy, the filing date, and court where filed:

21. List the names of any affiliates which have guaranteed debt of the debtor or whose debt the debtor has guaranteed. Also include the amount of the guarantee, the date of the guarantee, and whether any security interest was given to secure the guarantee. Only name those guarantees now outstanding or outstanding within the last 18 months:
22. List the names of any affiliates which have a debtor-creditor relationship with the debtor. Also include the amount and date of the loan, the amount of any repayments on the loan and the security, if any. Only name those loans now outstanding or paid off within the last 18 months:
23. List any security interest in any property granted by the debtor to secure any debts of any affiliate not covered in statements 20 and 21. List any security interest in any property granted by the affiliate to secure any debts of the debtor not covered in statements 21 and 22. Also include the collateral, the date and nature of the security interest, the name of the creditor to whom it was granted, and the current balance of the underlying debt:
24. List the name of any affiliate who is potentially a "responsible party" for unpaid taxes of the debtor under 26 U.S.C. §6672:

I verify that the above statements are true to the extent of my present knowledge and belief.

Applicant

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **DEBTOR'S APPLICATION FOR ORDER TO EMPLOY TONKON TORP LLP AS ATTORNEYS FOR DEBTOR** was served on the parties indicated as "ECF" on the attached List of Interested Parties by electronic means through the Court's Case Management/Electronic Case File system on the date set forth below.

In addition, the parties indicated as "Non-ECF" on the attached List of Interested Parties were served by mailing a copy thereof in a sealed, first-class postage prepaid envelope, addressed to each party's last-known address and depositing in the U.S. mail at Portland, Oregon on the date set forth below.

DATED this 20th day of November, 2013.

TONKON TORP LLP

By /s/ Ava L. Schoen

Albert N. Kennedy, OSB No. 821429
Timothy J. Conway, OSB No. 851752
Michael W. Fletcher, OSB No. 010448
Ava L. Schoen, OSB No. 044072
Attorneys for Debtor

LIST OF INTERESTED PARTIES

In re C & K Market, Inc.
U.S. Bankruptcy Court Case No. 13-64561-fra11

ECF PARTICIPANTS

- RICHARD T ANDERSON rick@andersonmonson.com, lisa@andersonmonson.com
- TIMOTHY J CONWAY tim.conway@tonkon.com, nancy.kennedy@tonkon.com
- MICHAEL W FLETCHER michael.fletcher@tonkon.com, leslie.hurd@tonkon.com;andy.haro@tonkon.com
- DAVID A FORAKER david.foraker@greenemarkley.com, joyce.chartrand@greenemarkley.com
- THOMAS A HUNTSBERGER tom@tahpc.com
- GREGG D JOHNSON gdj@aterwynne.com, jmh@aterwynne.com
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- TERESA H PEARSON teresa.pearson@millernash.com, lisa.conrad@millernash.com;brenda.hale@millernash.com
- AVA L SCHOEN ava.schoen@tonkon.com, larissa.stec@tonkon.com
- US Trustee, Eugene USTPRegion18.EG.ECF@usdoj.gov

NON-ECF PARTICIPANTS

SECURED CREDITORS

U.S. Bank N.A.
c/o Michael R. Stewart
Faegre Baker Daniels LLP
90 South Seventh St. #2200
Minneapolis, MN 55402-3901

Banc of America
Leasing & Capital LLC
2059 Northlake Parkway 4 South
Tucker, GA 30084

Dell Financial Services LLC
Mail Stop-PS2DF-23
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Round Rock, TX 78682

James D. Gillespie
28274 S. Fork Rd.
Dayville, OR 97825

Greatway Center Property LLC
8816 E. Evans Creeks
Rogue River, OR 97537

Green & Frahm
941 Delsie Dr.
Grants Pass, OR 97527

Komlofske Corp.
1535 E. 3rd St.
Prineville, OR 97754

Ken and Lynda Martin
80380 Torreon Way
La Quinta, CA 92253

Protective Life
2801 Highway 280 South
Birmingham, AL 35202

TOP 20 UNSECURED CREDITORS

Endeavour Structured Equity &
Mezzanine Fund I, LP
c/o Pamela K. Webster
Buchalter Nemer
1000 Wilshire Blvd. # 1500
Los Angeles, CA 90017-2457

THL Credit, Inc.
Pamela K. Webster
Buchalter Nemer
1000 Wilshire Blvd. #1500
Los Angeles, CA 90017-2457

Supervalu
101 Jefferson Ave. So
Hopkins, MN 55343

Western Boxed Meat Inc.
2401 NE Argyle St.
Portland, OR 97211

United Salad Co
8448 NE 33rd Dr. #100
Portland, OR 97211-2163

Umpqua Dairy Products
6823 NE 59th Pl
Portland, OR 97218

Bigfoot Beverages
86776 McVay Hwy.
Eugene, OR 97405

Core-Mark Intl
395 Oyster Point Blvd., #415
So. San Francisco, CA 94080

VPD IV Inc.
6051 S Watt Ave.
Sacramento, CA 95829

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Lowell, AR 97245

Komlofske Corp.
1535 E. 3rd St.
Prineville, OR 97754

Tarks, Inc.
3752 Colver Rd.
Phoenix, OR 97535

Willamina Foods, LLC
8630 SW Scholls Ferry Rd.
Beaverton, OR 97008

Marc and Charlotte Gould
5494 Goodrich Hwy.
Oakland, OR 97462

Marc and Charlotte Gould
c/o Raymond M. Ramsay
Ramsay & Stein PC
4285 Commercial St SE #140
Salem, OR 97302

S and J Reed, Inc.
c/o Steve Reed
2100 Pine Gate Way
White City, OR 97503

Nor-Cal Produce Inc.
2995 Oates St.
West Sacramento, CA 95691

The News Group
3995 70th Ave. E #B
Fife, WA 98424-1126

Pacific Power & Light Co.
1033 NE 6th Ave.
Portland, OR 95256-9199

Coca Cola Bottling Company
15333 SW Sequoia Pkwy.
Portland, OR 97224

Reser's Fine Foods Inc.
15570 SW Jenkins Rd.
Beaverton, OR 97006

OTHER

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Portland, OR 97201